5.0 ENVIRONMENTAL COMMITMENTS

Reclamation will be responsible for the successful implementation of all environmental commitments. Compliance with the CWA is required for work within the Rio Grande and the Drain, as both are considered Waters of the U.S. and under the jurisdiction of the USACE. Because in-water work will be completed within aquatic areas regulated by the CWA, a 404 permit is required. A state water quality certification permit, administered under Section 401 of the CWA, is also required. Both permits have been issued by the respective agencies. Section 402 of the CWA regulates point source discharges of pollutants into Waters of the U. S. and specifies that storm water discharges associated with construction activity be conducted under NPDES guidance. Storm water discharges as a result of construction of the proposed project will be limited to ground-disturbing activities outside the ordinary high water mark. All such activities will be evaluated for compliance with NPDES guidance; an NPDES permit for construction will be required and a SWPPP for the project will be developed by the contractor and kept on file at the construction site.

To avoid direct impact to migratory birds protected by the MBTA, clearing of woody vegetation and construction will be scheduled between August 15 and April 15, outside of the normal breeding season for many avian species. Should vegetation removal and construction be implemented during the breeding season (April 15-August 15), pre-construction breeding bird surveys will be conducted and monitoring performed to assure avoidance of impact to migratory birds and associated avian species. Any positive preconstruction survey results or observation of affected species during construction will be coordinated with USFWS to discuss nesting area avoidance. A temporary Construction Noise Permit may be required by the Albuquerque Environmental Health Department prior to construction, as specified in the local Noise Ordinance, Article 9 Section 9-13.

Appropriate permits for the Rio Grande Bosque and river access and staging areas will be acquired prior to the commencement of the Proposed Action. Proposed staging and access will be coordinated with the City's Open Space Division and the MRGCD. The MRGCD will acquire an OSE permit as the OSE has determined that there is a new point of diversion, new purpose of use and a new place of use of Rio Grande water.

ESA compliance has been addressed via an intraservice consultation with USFWS regarding potential impacts to threatened and endangered species and their habitat. BMPs will be enforced to minimize potential impacts to RGSM from direct construction impacts and erosional inputs into the river during periods of work. Consultation with USFWS determined the most effective BMPs. Compliance with the Fish and Wildlife Coordination Act will occur prior to project implementation in association with ESA compliance.

Reclamation has coordinated with the SHPO for purposes of NHPA Section 106 compliance. The Project is committed to avoidance of any TCPs in the project area. Should evidence of possible scientific, prehistorical, historical, or archeological data be discovered during the course

of this action, work shall cease at that location and the area archaeologist shall be notified by phone immediately, with the location and nature of the findings. Care shall be exercised so as not to disturb or damage artifacts or fossils uncovered during operations, and the proponents shall provide such cooperation and assistance as may be necessary to preserve the findings for removal or other disposition by the Government.

In addition to compliance with permitting requirements, the following early environmental commitments are included as part of the Proposed Action:

1. Should a bald eagle be observed within 0.25 mi. upstream or downstream of the active project site in the morning before project construction activity starts, or following breaks in project construction activity, the construction crew will be required to suspend all activity until the bird leaves on its own volition, or if the Reclamation biologist, in consultation with the USFWS, determines that the potential for harassment is minimal. However, if a bald eagle arrives during project construction activities or if a bald eagle is observed beyond the specified distance, construction will not need to be interrupted. If bald eagles are found consistently in the immediate project area during the construction period, Reclamation will contact the USFWS to determine whether formal consultation under the ESA is necessary.

2. Disturbance of riparian vegetation shall be limited to the minimum amount necessary to achieve construction objectives, in order to minimize habitat alteration and limit the effects of erosion and sedimentation. Mitigation for vegetation losses will include replanting at ratios of 3 new plants for each removed plant < 6 inches dbh, and 10 new plants for each plant > 6 inch dbh. These replacement ratios will apply for native vegetation within those areas directly damaged by construction. The 18 mature cottonwood trees removed at the beginning of construction will be replaced by pole plantings of 180 cottonwood saplings in selected areas near the riverbank to improve their potential for survival and in bosque within the project site. Coyote willows will also be planted as mitigation for removal of riparian shrubs and cottonwood saplings. All pole plantings may be caged with chicken wire initially to prevent animal damage.

3. Native grass, shrubs and pole plantings will be used to reestablish vegetation in areas disturbed by construction. Only the amount of the proposed staging and stockpiling areas needed will be used or disturbed. Upon completion of activities, the project area and the staging and stockpiling areas will be cleaned up and all materials and equipment removed. Disturbed areas will be reseeded with native grasses and shrubs using species including coyote willow, three leaf sumac, and wolfberry, or suitable species available from local nurseries. The reestablishment of vegetation will be monitored by Reclamation and irrigation water will be brought in by truck, if necessary, to ensure the successful establishment of the seeded areas.

4. To minimize soil erosion and increased turbidity in the Rio Grande during rain storms, standard construction BMPs will be used to minimize runoff during construction.

5. Fugitive dust will be suppressed by spreading water over disturbed areas where heavy equipment is working during dry conditions.

6. Standard BMPs will be used to manage water runoff during construction activities to prevent runoff during rainstorms from causing an unnaturally high level of sediment loading in the river and/or Drain. The contractor will utilize straw bails and silt fences placed at strategic locations to manage water runoff in the construction areas.

7. Design features and landscape plantings will lessen long-term impacts to visual and aesthetic resources.